

REMARKS

This Amendment is made to the final Office Action dated July 9, 2009. Claims 2, 4, 6-9, 13 and 15-19 are pending in this application. New claims 20-25 are being presented for consideration. Applicants respectfully request reconsideration of the claims in view of the remarks presented below.

Claims 2, 13, 15 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U. S. Patent No. 6,514,261 to Randall et al. (the "Randall patent") in view of U.S. Patent No. 5,707,376 to Kavteladze (the "Kavteladze patent") and in further view of U.S. Patent No. 5,968,052 to Sullivan III (the "Sullivan patent"). The Examiner indicates that the allowability of the previously pending claims was withdrawn in view of the newly discovered Randall patent. Applicants respectfully point out that the Randall patent was cited to the Examiner by Applicants in an IDS filed on November 10, 2006. The Examiner acknowledged the Randall patent in an Office Action dated January 26, 2007. Therefore, the Randall patent has been a cited reference in the pending application for over three (3) years. In any event, Applicants believe that the Examiner has taken an incorrect position in stating that the rotating rack (84) disclosed in the Randall patent can somehow be combined with the spring (92) disclosed in the Sullivan patent to create Applicants' currently pending invention.

Initially, Applicants respectfully note that claim 13 includes the recitation placed in the claims in the Examiner's Amendment which accompanied the Notice of Allowance dated September 12, 2008. The amendment requires the spur gear to **directly** engage the gears of the gear rack. In the reasons for allowance, The Examiner stated the following:

There is no prior art alone or in combination that discloses a spur gear that directly engages the gears of a gear rack and a rotatable thumbwheel attached to an actuating gear which engages the spur gear to cause the gear rack to move.

The Randall patent does not disclose a spur gear that directly engages the gears of a gear rack. Rather, the spur gear (88), as identified by the Examiner in the Office Action, only directly engages the actuating gear (92). There is another gear (not numbered in the Randall patent) which is attached to the spur gear (88). This unnumbered gear, not the spur gear (88), directly engages the gears of the gear rack in the Randall device.

Applicants note that in the Office Action the Examiner merely states that the spur gear (88) **engages** the gears of the gear rank. However, as stated above, the claims require the spur gear to **directly engage** the gears of the gear rack. This structure is simply not shown in the Randall patent. Therefore, for just this reason alone, the Randall patent, in combination with the other references, fails to disclose a spur gear that directly engages the gears of a gear rack.

The Randall patent is directed to a control handle that utilizes a turn screw which forms a movable rack (84). Reference is made to FIGS. 13, 15 and 16 which shows the particular structure of this screw rack (84). As the thumbwheel of the Randall device is rotated, the actuating mechanism rotates the screw rack (84) to allow it to move linearly within the handle. The Sullivan patent discloses the use of a spring (92) which allows motion of a gear rack in only one direction. The Examiner states that one skilled in the art would simply incorporate the spring disclosed in the Sullivan patent with the gear rack shown in the Randall patent. However, the pending claims also require that spring have an edge which **contacts** the distal surface of the gears forming the gear rack **to prevent distal movement of the gear rack**. If one skilled in the art simply took the spring disclosed in the Sullivan patent and contacted its spring edge to the distal side of the screw rack (84), as shown in the Randall patent, the screw rack (84) would simply continue to rotate with the spring edge scrapping the distal side of the screw rack (84). Thus, the spring edge (92) would not prevent movement of the rack in any direction since the rotation of the screw rack (84) would continue. At best, the placement of the spring (92) of the Sullivan patent with the screw rack (84) disclosed in Randall would make rotation of the thumb wheel more difficult due to the creation of dynamic friction as the

spring edge makes contact with the rotating screw rack (84). Accordingly, the combination suggested by the Examiner would not create the structure now recited in the pending claims. Applicants respectfully request the Examiner to withdraw the rejection of all of the pending claims for just this reason.

Claims 6, 16 and 19 were rejected under 35 U.S.C. 103(a) as being unpatentable over the Randall patent in view of the Kavteladze patent and Sullivan patent, as applied to claim 13, and in further view of U.S. Patent No. 6,146,415 to Fitz (the "Fitz patent"). Again, as addressed above, the combination of the Randall patent with the Kavteladze and Sullivan patents fails to achieve the basic structure recited in claim 13. For this reason alone, claims 6, 16 and 19 are patentably distinct from the cited art. Applicants note that the Fitz patent fails to disclose the various elements lacking in the combination of the Randall, Kavteladze and Sullivan devices. Applicants respectfully request that these rejections under 35 U.S.C. 103(a) be withdrawn.

Claim 4 was rejected under 35 U.S.C. 103(a) as being unpatentable over the Randall patent in view of the Kavteladze patent and Sullivan patent, as applied to claim 13, and in further view of U.S. Patent No. 6,860,898 to Stack (the "Stack patent"). Again, as addressed above, the combination of the Randall patent with the Kavteladze and Sullivan patents fails to achieve the basic structure recited in claim 13. For this reason alone, claim 4 is patentably distinct from the cited art. Applicants also note that the Stack patent fails to disclose the various elements lacking in the combination of the Randall, Kavteladze and Sullivan devices. Applicants respectfully request that these rejections under 35 U.S.C. 103(a) be withdrawn.

Claim 17 was rejected under 35 U.S.C. 103(a) as being unpatentable over the Randall patent in view of the Kavteladze, Sullivan and Fitz patents, as applied to claim 19, and in further view of U.S. Patent No. 7,128,965 to Wang (the "Wang patent"). Applicants respectfully note that U.S. Patent No. 7,128,965 is entitled "Cementitious product in panel form and manufacturing process." Applicants could not figure out the

correct citation of the Wang patent. However, it should be noted, as addressed above, the combination of the Randall patent with the Kavteladze, Sullivan and Fitz patents fails to achieve the basic structure recited in claims 13 and 19. For this reason alone, claim 17 is patentably distinct from the cited art.

Claim 7 was rejected under 35 U.S.C. 103(a) as being unpatentable over the Randall patent in view of the Kavteladze, Fitz and Sullivan patents, as applied to claim 19, and in further view of U.S. Publication No. 2003/0060803 to McGlinch (the "McGlinch publication"). Again, as addressed above, the combination of the Randall patent with the Kavteladze, Fitz and Sullivan patents fails to achieve the basic structure recited in claims 13 and 19. For this reason alone, claim 7 would be patentably distinct from the cited art. Applicants respectfully request that these rejections under 35 U.S.C. 103(a) be withdrawn.

Claim 8 was rejected under 35 U.S.C. 103(a) as being unpatentable over the Randall patent in view of the Kavteladze, Fitz, McGlinch and Sullivan patents, as applied to claim 7, and in further view of U.S. Patent No. 6,733,465 to Smutney (the "Smutney patent"). Again, as addressed above, the combination of the Randall patent with the Kavteladze, Fitz, McGlinch and Sullivan patents fails to achieve the basic structure recited in claims 13 and 7. For this reason alone, claim 8 would be patentably distinct from the cited art. Applicants respectfully request that these rejections under 35 U.S.C. 103(a) be withdrawn.

It is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Please charge any fees payable in connection with this response to Deposit
Account No. 06-2425.

Respectfully submitted,
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